

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

SECOND REGULAR SESSION  
FIFTY-SEVENTH LEGISLATURE

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**TWENTY-FIFTH LEGISLATIVE DAY  
THURSDAY, FEBRUARY 5, 2004**

Senate Chamber

President Risch called the Senate to order at 11 a.m.

Roll call showed all members present except President Pro Tempore Geddes, and Senators Calabretta, Cameron, Davis, Lodge, Marley, Noble, Pearce, and Schroeder, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Colin Starry, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

President Pro Tempore Geddes and Senators Calabretta and Lodge were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 4, 2004, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

February 5, 2004

The JUDICIARY AND RULES Committee reports that **S 1269, S 1270, S 1271, S 1272, S 1273, S 1274, S 1275, S 1276, and S 1277** have been correctly printed.

DARRINGTON, Chairman

**S 1269** was referred to the Local Government and Taxation Committee.

**S 1270** was referred to the Education Committee.

**S 1271, S 1272, S 1273, S 1274, and S 1275** were referred to the Transportation Committee.

**S 1276** and **S 1277** were referred to the Commerce and Human Resources Committee.

February 4, 2004

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Karl Dreher as Director of the Department of Water Resources, term to expire January 4, 2007.

NOH, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 4, 2004

The JUDICIARY AND RULES Committee reports out **S 1234** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, **S 1234** was referred to the Fourteenth Order of Business, General Calendar.

February 4, 2004

The JUDICIARY AND RULES Committee reports out **S 1237** with the recommendation that it do pass.

DARRINGTON, Chairman

**S 1237** was filed for second reading.

February 4, 2004

The STATE AFFAIRS Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Vernon Baker to the Commission on Human Rights, term to expire July 1, 2006.

RICHARDSON, Vice Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 4, 2004

The STATE AFFAIRS Committee reports out **S 1238** and **S 1253** with the recommendation that they do pass.

RICHARDSON, Vice Chairman

**S 1238** and **S 1253** were filed for second reading.

Senator Pearce was recorded present at this order of business.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

#### Messages from the House

Senator Schroeder was recorded present at this order of business.

February 4, 2004

Mr. President:

I transmit herewith **HCR 36** and **H 510** which have passed the House.

JUKER, Chief Clerk

**HCR 36** and **H 510** were filed for first reading.

February 4, 2004

Mr. President:

I transmit herewith Enrolled **H 504** and **H 514** for the signature of the President.

JUKER, Chief Clerk

The President signed Enrolled **H 504** and **H 514** and ordered them returned to the House.

The Senate advanced to the Tenth Order of Business.

#### Motions and Resolutions

Senators Marley and Noble were recorded present at this order of business.

The President announced the Judiciary and Rules Committee report relative to the Gubernatorial appointment of William A. Parsons to the Idaho Judicial Council was before the Senate for final consideration.

Moved by Senator Darrington, seconded by Senator Little, that the report of the Judiciary and Rules Committee be adopted. The question being, "Shall the motion prevail?"

Roll call vote was requested by Senators Stennett, Kennedy, and Calabretta.

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burtenshaw, Compton, Darrington, Geddes, Goedde, Hill, Ingram, Keough, Little, Lodge, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Sorensen (Sorensen), Stegner, Sweet, Williams. Total - 24.

NAYS--Burkett, Calabretta, Kennedy, Malepeai, Marley, Stennett, Werk. Total - 7.

Absent and excused--Cameron, Davis, Gannon, Schroeder. Total - 4.

Total - 35.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

Senator Cameron was recorded present at this order of business.

The President announced the Local Government and Taxation Committee report relative to the Gubernatorial appointment of Lyle R. Cobbs was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Ingram, seconded by Senator Bunderson, the Gubernatorial appointment of Lyle R. Cobbs as a member of the State Board of Tax Appeals was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

#### Introduction, First Reading and Reference of Bills, House Petitions, Resolutions, and Memorials

**S 1278**

**BY HEALTH AND WELFARE COMMITTEE**

AN ACT

RELATING TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMENDING SECTION 39-3626, IDAHO CODE, TO PROVIDE THAT THE DEPARTMENT MAY USE A LIMITED PORTION OF INTEREST REVENUES FROM WASTEWATER AND DRINKING WATER LOANS FOR OPERATION OF THE LOAN PROGRAMS SUBJECT TO ANNUAL APPROPRIATION.

**S 1279****BY HEALTH AND WELFARE COMMITTEE****AN ACT**

RELATING TO DRINKING WATER AND WASTEWATER; AMENDING TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 24, TITLE 54, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO PROVIDE A DECLARATION OF POLICY, TO REQUIRE LICENSING OF CERTAIN OPERATING PERSONNEL FOR PUBLIC DRINKING WATER SYSTEMS, PUBLIC WASTEWATER SYSTEMS AND PERSONS PERFORMING BACKFLOW ASSEMBLY TESTING OR INSPECTION, TO PROHIBIT SPECIFIED CONDUCT, TO PROHIBIT THE TRANSFER OF LICENSES, TO DEFINE TERMS, TO PROVIDE FOR THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS, TO PROVIDE FOR QUALIFICATIONS AND APPOINTMENT, TO PROVIDE FOR TERMS, TO PROVIDE FOR REMOVAL, TO PROVIDE FOR BOARD PROCEDURES, TO PROVIDE FOR THE PAYMENT OF EXPENSES OF BOARD MEMBERS, TO PROVIDE FOR POWERS AND DUTIES OF THE BOARD, TO PROVIDE FOR FEES, TO PROVIDE FOR THE PAYMENT OF COSTS AND EXPENSES, TO PROVIDE FOR LICENSING BY THE BUREAU OF OCCUPATIONAL LICENSES, TO PROVIDE FOR LICENSES, TO REQUIRE THE BOARD TO KEEP AND THE BUREAU TO MAINTAIN CERTAIN RECORDS, TO PROVIDE FOR THE SUBMISSION AND REVIEW OF APPLICATIONS FOR LICENSURE, TO PROVIDE LICENSE CATEGORIES, TO PROVIDE APPLICANT REQUIREMENTS, TO PROVIDE FOR ENDORSEMENT AND LICENSURE OF PERSONS LICENSED IN OTHER STATES PROVIDED CERTAIN QUALIFICATIONS ARE MET, TO PROVIDE REQUIREMENTS FOR THE ANNUAL RENEWAL OF LICENSES, TO PROVIDE FOR THE REVOCATION OR SUSPENSION OF LICENSES, TO PROVIDE FOR POWERS OF THE BOARD, TO PROVIDE PROCEDURES FOR DISCIPLINARY PROCEEDINGS, TO PROVIDE FOR VIOLATIONS AND PENALTIES, TO PROVIDE FOR DUTIES OF PROSECUTING ATTORNEYS AND THE ATTORNEY GENERAL; AND DECLARING AN EMERGENCY.

**S 1280****BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO CHILD SUPPORT ENFORCEMENT; AMENDING SECTION 56-203F, IDAHO CODE, TO REDESIGNATE THE SECTION, TO AUTHORIZE THE DEPARTMENT OF HEALTH AND WELFARE TO ESTABLISH A FINANCIAL DATA MATCH PROCESS WITH FINANCIAL INSTITUTIONS AND TO SPECIFY THE TERMS AND CONDITIONS OF THE PROCESS; AMENDING TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 16, TITLE 32, IDAHO CODE, TO GOVERN THE FINANCIAL DATA MATCH PROCESS FOR PURPOSES OF CHILD OR SPOUSAL SUPPORT ENFORCEMENT, TO DEFINE TERMS, TO SPECIFY GROUNDS FOR WITHHOLDING ASSETS, TO SPECIFY CONTENT OF AN ASSET WITHHOLDING ORDER, TO GOVERN ISSUANCE OF THE ASSET WITHHOLDING ORDER, TO GOVERN DELIVERY OF AN ASSET WITHHOLDING ORDER AND

ACCEPTANCE OF JURISDICTION, TO PROVIDE REQUIREMENTS FOR NOTICE, TO SPECIFY DUTIES OF THE FINANCIAL INSTITUTIONS, TO GOVERN CONDITIONS WHEN NO REQUEST FOR HEARING IS FILED, TO GOVERN CONDITIONS WHEN A REQUEST FOR HEARING TO CONTEST AN ASSET WITHHOLDING IS FILED, TO SPECIFY THE BASIS TO CONTEST AN ASSET WITHHOLDING ORDER, TO GOVERN THE ORDER FROM A HEARING, TO GOVERN CONDITIONS OF DEFAULT AND TO REGULATE THE LIABILITY OF FINANCIAL INSTITUTIONS.

**S 1281****BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO TATTOOING, BRANDING AND BODY PIERCING OF MINORS; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1523, IDAHO CODE, TO DEFINE TERMS, TO PROHIBIT CERTAIN ACTIONS ON MINORS UNDER THE AGE OF FOURTEEN YEARS, TO REQUIRE THE WRITTEN INFORMED CONSENT OF A MINOR'S PARENT OR LEGAL GUARDIAN PRIOR TO THE TATTOOING, BRANDING OR BODY PIERCING OF MINORS AGED FOURTEEN TO EIGHTEEN YEARS, TO REQUIRE SUCH CONSENT TO BE EXECUTED IN THE PRESENCE OF CERTAIN PERSONS AND TO PROVIDE PENALTIES.

**S 1282****BY STATE AFFAIRS COMMITTEE****AN ACT**

RELATING TO THE PERSONNEL SYSTEM AND NONCLASSIFIED STATE OFFICERS AND EMPLOYEES; AMENDING SECTION 59-1607, IDAHO CODE, TO CLARIFY STATE EMPLOYMENT POLICY ON HOURS WORKED AND OVERTIME COMPENSATION FOR CLASSIFIED AND NONCLASSIFIED EMPLOYEES DESIGNATED AS EXECUTIVE, FOR CLASSIFIED AND NONCLASSIFIED OFFICERS AND EMPLOYEES DESIGNATED AS ADMINISTRATIVE OR PROFESSIONAL, AND FOR CLASSIFIED AND NONCLASSIFIED OFFICERS AND EMPLOYEES NOT DESIGNATED AS EXECUTIVE, ADMINISTRATIVE OR PROFESSIONAL AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-5329, IDAHO CODE, TO CLARIFY ELIGIBILITY FOR CASH COMPENSATION OR COMPENSATORY TIME FOR OVERTIME WORK FOR CLASSIFIED AND NONCLASSIFIED OFFICERS AND EMPLOYEES, FOR CLASSIFIED AND NONCLASSIFIED EMPLOYEES DESIGNATED AS EXECUTIVE, AND FOR CLASSIFIED AND NONCLASSIFIED EMPLOYEES DESIGNATED AS ADMINISTRATIVE OR PROFESSIONAL, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 67-5330, IDAHO CODE, TO DELETE A SUBSECTION REFERENCE AND TO MAKE A TECHNICAL CORRECTION.

**S 1283**  
**BY STATE AFFAIRS COMMITTEE**  
 AN ACT

RELATING TO LIMITATIONS ON SMOKING IN PUBLIC PLACES; AMENDING SECTION 39-5501, IDAHO CODE, TO REVISE LEGISLATIVE INTENT; AMENDING SECTION 39-5502, IDAHO CODE, TO FURTHER DEFINE TERMS; AMENDING SECTION 39-5503, IDAHO CODE, TO EXTEND THE PROHIBITION ON SMOKING TO PUBLICLY-OWNED BUILDINGS OR OFFICES AND TO REVISE WHAT MAY BE A DESIGNATED SMOKING AREA; REPEALING SECTION 39-5504, IDAHO CODE; AMENDING SECTION 39-5506, IDAHO CODE, TO REVISE RESPONSIBILITIES OF EMPLOYERS; AMENDING SECTION 39-5507, IDAHO CODE, TO REVISE ENFORCEMENT PROCEDURES; AND AMENDING CHAPTER 55, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-5511, IDAHO CODE, TO PROVIDE THAT MORE STRINGENT LOCAL PROVISIONS MAY BE ADOPTED.

**S 1284**  
**BY LOCAL GOVERNMENT AND TAXATION**  
**COMMITTEE**  
 AN ACT

RELATING TO THE SALES TAX; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 63-3623, IDAHO CODE, TO PROVIDE THAT SALES AND USE TAX RETURNS CONTAIN INFORMATION ABOUT THE COUNTY WITHIN WHICH THE SALES OCCURRED AND THE DOLLAR AMOUNT OF THE SALES PER COUNTY AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3623C, IDAHO CODE, TO PROVIDE THAT THE STATE TAX COMMISSION SHALL MAKE STATISTICS AVAILABLE ABOUT THE AMOUNT OF SALES PER COUNTY THAT ARE SUBJECT TO THE SALES AND USE TAX.

**S 1278, S 1279, S 1280, S 1281, S 1282, S 1283, and S 1284** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

**HCR 36**, by State Affairs Committee, was introduced, read at length, and referred to the State Affairs Committee.

**H 510**, by State Affairs Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

The Senate advanced to the Twelfth Order of Business.

**Second Reading of Bills**

**H 565** and **H 566**, by Appropriations Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

**Third Reading of Bills**

Senator Davis was recorded present at this order of business.

**S 1229** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Brandt arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen (Sorensen), Stegner, Stennett, Sweet, Werk, Williams.  
 Total - 35.

Whereupon the President declared **S 1229** passed, title was approved, and the bill ordered transmitted to the House.

**S 1230** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Burtenshaw arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen (Sorensen), Stegner, Stennett, Sweet, Werk, Williams.  
 Total - 35.

Whereupon the President declared **S 1230** passed, title was approved, and the bill ordered transmitted to the House.

**S 1207** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen (Sorensen), Stegner, Stennett, Sweet, Werk, Williams.  
 Total - 35.

Whereupon the President declared **S 1207** passed, title was approved, and the bill ordered transmitted to the House.

**S 1208** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Sweet arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen (Sorensen), Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **S 1208** passed, title was approved, and the bill ordered transmitted to the House.

**S 1209** was read the third time at length, section by section, and placed before the Senate for final consideration. Acting Senator Sorensen arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen (Sorensen), Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--McKenzie. Total - 1.

Total - 35.

Whereupon the President declared **S 1209** passed, title was approved, and the bill ordered transmitted to the House.

**S 1221** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen (Sorensen), Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

Whereupon the President declared **S 1221** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

#### **Miscellaneous Business**

On motion by Senator Stegner, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:10 p.m. until the hour of 11:15 a.m., Friday, February 6, 2004.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary